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MEMORANDUM FOR: Legislative Counsel 25 July 1959

FROM : Assistant General Counsel [redacted] 25X1A

SUBJECT : Proposed Legislation to Codify Laws on Construction and Alteration of Public Buildings

OGC REVIEW COMPLETED

(Extracts from memorandum)

Possible future additional Headquarters Building - Such a structure, if for office or storage space, would appear to come within the provisions of the proposed bill. If so, authorization would be needed from the House and Senate Public Works Committees and such a building would have to compete for priority under the procedure established by section 7 of the bill with those proposed by other agencies. This result might be avoided if a Presidential exclusion could be obtained under section 13(1)(I). Alternatively a tenuous argument might be made that the above-mentioned exemption in section 14(3) for our first Headquarters Building covered additional construction: there remains a balance unexpended of the appropriation of [redacted] 25X1A made to this Agency by PL 84-814 of July 27, 1956, and our authorization in PL 84-161 of July 15, 1955 was to "provide for a headquarters installation ... by the ... construction of buildings, facilities, appurtenances, utilities, and access roads at a cost of not to exceed [redacted] 25X1A The latter argument might be used in support of a request for a Presidential exclusion. If this approach were taken, GSA would undoubtedly remind CIA that our negotiations of last February and March resulted in part in our acknowledgment that a request for an additional headquarters structure would be within the purview of GSA and the presently-proposed bill. A rebuttal, however, could take note that the present bill places much more authority in the hands of the Public Works Committees than did the original GSA proposal which was the basis of our negotiations; moreover to a significant extent, space in our second building is now expected to be special purpose space (e.g. printing plant, etc.) rather than ordinary office or storage space.

Agency-Owned Operational Properties - I know of no such properties which would fall in the class of general office or storage space. I believe that (such) properties would be exempt from coverage under this bill on the ground that they are special purpose installations. A second ground for exemption is security, and in this connection our negotiations with GSA resulted in an indication of willingness on their part to refrain from interfering with our control of such properties. If necessary, we could obtain a delegation of the authorities granted by the proposed bill to the Administrator. Section 15 provides that "the performance, in accordance with standards established by the Administrator of General Services, of the responsibilities and authorities vested in him under this Act... may be delegated to the appropriate executive agency where the Administrator determines that such delegation will promote efficiency and economy. No delegation of responsibility or

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authority made under this section shall exempt the person to whom such delegation is made, or the exercise of such responsibility or authority, from any other provision of this Act."

Even if a structure falls within the definition of a "public building", it may not be subject to the procedures established by the proposed bill. The possibility of a Presidential exclusion under section 13(1)(I) has already been mentioned. The Administrator has no authority to grant an exclusion; he does have discretionary authority to delegate to another agency his responsibilities in carrying out acquisition and construction activities under the Act when he determines that efficiency and economy will be promoted thereby (sec.15). No monetary ceiling is imposed on such a delegation.

Legislative Control Mechanism - One of the most important elements in the scheme advanced by this bill relates to legislative oversight by the Public Works Committees of the House and Senate. Section 12(c) enjoins the Administrator "in carrying out his duties ... (to) ... "provide for the construction and acquisition of public buildings equitably throughout the United States with due regard to the comparative urgency of the need for each particular building". Whatever this language may mean in practice, the two Committees have created a procedural device intended to keep them firmly in control of authorizations for new construction. Section 7(a) provides in part:

> "In order to insure the equitable distribution of public buildings throughout the United States with due regard for the comparative urgency of need for such buildings ... no appropriation shall be made to construct any public building or to acquire any building to be used as a public building involving an expenditure in excess of $100,000, and no appropriation shall be made to alter any public building involving an expenditure in excess of $200,000, if such construction, alteration or acquisition has not been approved by resolutions adopted by the (two Committees) and such approval has not been rescinded ... "

To obtain the foregoing Committee approvals, the Administrator is directed to submit a detailed prospectus and analysis for each proposed project. After a project has been approved by the Committees, if an appropriation has not been made within one year after the date of approval, either Committee may rescind its approval by resolution. Whenever there are 30 or more projects which have had Committee approval for more than one year but for which no appropriations have been made, the Committees may not approve further projects until the backlog has been reduced below 30 by rescission or by appropriation. The purpose of the foregoing provisions is to establish a realistic relationship between projects authorized and available appropriations, and to do away with the existing practice of authorizing projects freely and without regard to the likelihood of funds being made available for their prosecution. (Floor debate on H.R. 7645, Cong. Rec. July 8, 1959, p. 11830). A second purpose is to make it impossible in the future for agencies to by-pass the Public Works Committees and obtain building authorizations from other Committees exercising le-

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gislative oversight for certain agencies. (Id., p. 11833). The CIA headquarters building now under construction is a case in point. The foregoing control mechanism could be expected to complicate the problem of this Agency obtaining legislative authorization for additional construction at Langley. As noted heretofore, however, the Director has been made aware of this matter, and it is my understanding that he has concluded this difficulty is not insuperable and is to be accepted.

/s/ [redacted] 25X1A9A

Assistant General Counsel

Attachments:

1. L.R.Houston ltr dtd 27 Mar 59 to J.H.Macomber, General Counsel GSA, and enclosure draft ltr from [redacted] Legislative Counsel to Phillip S. Hughes, BOB. 25X1A9A
2. L.R.Houston Memorandum for the Record dtd 27 Mar 59 reporting DCI's approval of Attachment 1.
3. GSA-drafted proposed bill circulated to agencies by BOB for comment.
4. H.R. 5404
5. GPO document 40349, entitled "Public Buildings and Grounds", No. 86-5, Hearings of House Subcommittee on Public Buildings and Grounds of House Committee of Public Works.
6. H.R. 7645, "Public Buildings Act of 1959"
7. House Report No. 557, to accompany H.R. 7645

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